

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

AMANDA BARGE, et ux.,

Plaintiffs

v.

DAVID J. SALINGER, M.D., et al.,

Defendants

\* NO. 1:00-CV-1881  
\* **(Judge Conner)**

\* CIVIL ACTION - LAW

\* JURY TRIAL DEMANDED

**NOTICE**

You are hereby notified to file a written answer to the attached motion for delay damages within twenty days from the filing of the motion or the delay damages sought in the motion may be added to the verdict or decision against you.

LAW OFFICES OF RICHARD OARE

Respectfully Submitted:

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Richard Oare, Esquire  
1434 S. George St.  
York, Pennsylvania 17403  
717-846-3000  
I.D.#1698  
Attorney for the Plaintiffs

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Louis G. Close, III, Esquire  
Louis G. Close, III, P.A.  
22 West Pennsylvania Ave, Suite 300  
Towson, Maryland 21204  
(410) 296-3603  
Attorney for the Plaintiffs

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**PETITION FOR DELAY DAMAGES**

1. This is an action for personal injuries sustained by Plaintiff, Amanda Barge and Arthur Barge, in a medical negligence case.

2. On January 19, 2001, Plaintiffs served a Complaint upon the first Defendant, Dr. Ying.

3. On April 29, 2003, following a seven-day trial before the Honorable Christopher Conner, a jury verdict in favor of the Plaintiffs and against the Defendants was returned in the amount of \$350,000.00, but assessing sixty-five percent (65%) as to Defendants Salinger and Keystone and thirty-five percent (35%) as to Defendants Ying and CPRS.

4. A written settlement offer was made by the Defendants on February 21, 2003 in the amount of \$100,000.

5. Pursuant to Pa.R.C.P. No. 238(a)(2)(ii), delay damages are to be awarded from a date one year after the date original process was served up to the date of the verdict. Here, that period is January 19, 2002, to March 3, 2003.

6. Rule 238 provides that "damages for delay shall be calculated at the rate equal to the prime rate as listed in the first edition of the Wall Street Journal published for each calendar year for which the damages are awarded, plus 1%, not compounded.

7. The prime rate published in the first edition of the Wall Street Journal for 2002 and 2003 plus 1%, is as follows:

2002	5.75%
2003	5.25%

8. Pursuant Rule 238(b)(2), any delay caused by the Plaintiff shall be excluded. Plaintiff sought a continuance from the March 3, 2003, and therefore the time period of March 3, 2003 to May 5, 2003 should be excluded.

9. Consistent with the interest rates set forth above, the damages for delay calculated pursuant to Rule 238 for each portion of a year during this period on the molded jury verdict of \$312,147.54 is as follows:

2002 (346 days X \$49.00 per day)	\$ 16,954.00
2003 (62 days X \$44.90 per day)	<u>\$ 2,783.67</u>
<b>TOTAL</b>	<b>\$ 19,737.67</b>

**WHEREFORE**, Plaintiff, Amanda Barge and Arthur Barge, respectfully requests that the molded jury verdict of \$312,147.54 be re-molded to reflect the addition of delay damages in the sum of \$19,737.67, for a total jury verdict of \$331,885.21. Plaintiff also requests the addition of docket costs in the amount of \$150.00, which when added to the molded jury verdict results in a judgment of \$332,035.21.

LAW OFFICES OF RICHARD OARE

Respectfully Submitted:

Richard Oare, Esquire /s/  
1434 S. George St.  
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717-846-3000  
I.D.#1698  
Attorney for the Plaintiffs

Louis G. Close, III, Esquire /s/  
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(410) 296-3603  
Attorney for the Plaintiffs

**CERTIFICATE OF SERVICE**

**AND NOW**, this       day of May, 2003, I, Richard Oare, Esquire, hereby certify that I have, this date, served a copy of the within and foregoing **PETITION FOR DELAY DAMAGES** by fax and first class United States Mail, postage pre-paid, addressed to the party or attorney of record as follows:

Joseph A. Ricci  
Farrell & Ricci, P.C.  
4423 North Front Street  
Harrisburg, PA 17110  
717) 230-9201  
Attorney for Defendants Comprehensive  
Physics & Regulatory Services, Ltd. and  
William Ying, Ph.D.

B. Craig Black, Esquire  
McKissock & Hoffman, P.C.  
2040 Linglestown Road  
Harrisburg, PA 17110  
Attorney for Defendant, David J. Salinger, M.D.

Respectfully Submitted:

Richard Oare, Esquire /s/  
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York, Pennsylvania 17403  
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I.D.#1698  
Attorney for the Plaintiffs

